

Beside expressly denying the charges of fraud, defending the items of claim impeached by the bill, and placing the defence of the settlement, upon the ground of compromise ; the answer presents various other objections to the relief sought by the bill, or to any relief being granted this plaintiff, which will be briefly noticed hereafter.

The case of *Farnam vs. Brooks*, 9 Pick., 212, has been very much pressed by the counsel on both sides, as establishing principles important to the views which each has attempted to maintain. That appears to have been the case of a compromise of unsettled accounts between the parties, by which a smaller sum was received in satisfaction of the debt than the sum subsequently ascertained to be due ; and yet, although the court decided, expressly, that the charge of fraud was not made out, they permitted the plaintiff to surcharge and falsify the account on which the settlement was made. The sum agreed to be received in satisfaction in that case, was \$60,000 ; and that amount was fixed upon, upon a statement of the account, as prepared by the defendant, by which it appeared, that the sum actually due, was \$64,000, on payment of which, the intestate of the plaintiff gave to the defendant a receipt in full, and a transfer of all his interest in the concern in which they were partners, in relation to the business of which the accounts were stated. It subsequently appeared, upon a more careful examination of the account, that the sum really due was \$68,000, growing out of errors, in omitting sums which ought to have been credited, and charging others which ought not to have been debited, and upon this ground, and, notwithstanding, the court expressly declared, "that these errors furnished no ground of suspicion of unfairness or fraud," the plaintiff was permitted to surcharge and falsify the account on which the settlement was made, although nearly twenty years had elapsed from the date of the settlement to the filing of the bill.

That case, in many of its features, will be found to bear a close resemblance to the present ; and, I am much mistaken, if the doctrines established by it with so much ability and learning, will not justify the order which will be passed in this case.